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REMARKS

Claims 1, 2, 5, 6, 11, 13, 14, and 16-21 are pending in the application. All claims stand rejected. Claims 1, 2, 5, 6, 13, 14, 16, 18 and 19 stand rejected under 35 U.S.C. §103 as being unpatentable over Oetiker, U.S. Patent No. 5,001,816 in view of Hess, U.S. Patent No. 1,967,821. Claims 11, 13 and 17 stand rejected under 35 U.S.C. §103 as being unpatentable over Oetiker and Hess and further in view of Buedenbender, EP 2 888 84 B. Finally, claims 20 and 21 stand rejected under 35 U.S.C. §103 as being unpatentable over Oetiker in view of Hess and Steingroever. The Hess reference is a newly cited reference, presenting new grounds of rejection which are presented for the first time in the Final Office Action. In view of this, Applicant requests that the foregoing amendments be entered because they do not present new arguments for consideration, but merely clarify Applicant's position in earlier responses; they put the case in a condition for allowance or, at least, in a better form for appeal; and Applicant has not been afforded an opportunity to address the Hess reference.

By the foregoing amendments, Applicant has clarified that the present invention is intended to be plastically deformed to aid in clamping an elastic member to a rigid member. Accordingly, claims 1 and 5 have been amended to specifically recite that the clamping ring can be readily plastically deformed. Thus, as presently presented, independent claims 1, 5, 18, 19, 20 and 21 each require that the clamping ring be readily plastically deformable. Further, independent claims 1, 5, 18, 19, 20 and 21 each require that the strip ends each have a single straight edge which extends at a right angle relative to the longitudinal direction of the strip portion, or that the strip ends each have a single straight edge which extends at an oblique angle relative to the longitudinal direction of the strip portion, which admittedly, the Oetiker reference does not disclose or suggest. However, the Office Action relies upon Hess for such disclosure. Applicant traverses and submits that Hess is non-analogous art. Hess is directed toward a process of making a bearing race. Applicant submits that the structure function, purpose and manufacture of the bearing race in Hess is substantially different than the clamping rings of the present invention. The roller bearing outer race of Hess is made

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from flat stock material which is formed into a ring and butt welded at the ends. Further, the roller bearing outer race of Hess is heat-treated and hardened because it is critical that the race maintain its shape and provide a wear-resistant bearing surface in order to function as a bearing. Accordingly, Applicant submits that Hess is non-analogous art because it is directed toward solving a different problem than that solved by the present invention. In other words, the method of joining edges of an outer bearing race would not have logically commended itself to the inventor's attention in considering methods of joining the ends of a clamp band which must be plastically deformed in order to engage an elastic member to a rigid member. Clearly, the outer bearing race of Hess cannot be readily plastically deformed without destroying its structure as the brittle case hardened material would crack. As non-analogous art, the Hess reference cannot be relied upon to support the obviousness rejection of independent claims 1, 5, 18, 19, 20 and 21. For this reason, Applicant submits that these claims are non-obvious and allowable.

The lack of a *prima facie* case of obviousness is even stronger, however, with respect to method claims 18-21. Independent claims 18 and 19 both explicitly require that the clamping ring is radially upset by being permanently plastically deformed, and that the upsetting takes place mechanically by an annular tool which is divided into several segments. Again, note that this process could not be carried out on the device of Hess with any success. Thus, one of skill in the art would not look to the Hess reference as teaching a way to join ends of a strip member which must undergo plastic deformation. For similar reasons, independent claims 20 and 21 are also non-obvious. That is, each requires radially upsetting the clamping ring such that it is permanently plastically deformed wherein the upsetting is performed electro-magnetically by annularly arranged magnetic coils. As mentioned above, this process would not be considered for a brittle, case hardened steel piece such as the outer bearing race of Hess.

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Applicant further traverses the rejections in the Office Action because, regardless of whether Hess is considered non-analogous art, one of skill in the art would not be motivated to combine Hess with Oetiker to arrive at the claimed invention. There is no suggestion in Hess or Oetiker that the straight edge weld or oblique edge weld as shown in Hess would work for its intended purpose in a clamp band application wherein the clamp band is intended to be plastically deformable. Indeed, for this very reason clamping bands traditionally comprise overlapping ends or some form of inter-engaging mechanisms to keep the strip ends together. Accordingly, there is no motivation, suggestion or incentive to combine the teachings of Hess and Oetiker to arrive at the present invention, absent hindsight reconstruction. For this additional reason, the rejections under 35 U.S.C. §103 should be withdrawn.

Having overcome all of the objections and rejections set forth in the Office Action, Applicant submits that claims 1, 2, 5, 6, 11, 13, 14 and 16-21 are in a condition for allowance. A Notice of Allowance indicating the same is therefore earnestly solicited. The Examiner is invited to telephone the Applicant's undersigned attorney at (248) 223-9500 if any unresolved matters remain.

Respectfully Submitted,

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